

Leave Without Pay and Your Benefits

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**Labor/Employee Relations Team
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Leave Without Pay and Your Benefits

Important Information

This booklet is provided as general guidance for employees, supervisors, and managers concerning the availability of certain benefits during and after leave without pay. It is not intended to change or otherwise modify any law, regulation, or collective bargaining agreement that may impact the subject matter contained in this document. In the event that there is an inconsistency, the law, regulation, or collective bargaining agreement will prevail. As many of these issues are complex, please consult appropriate sources for full information.

Throughout this document, unless stated otherwise, where reference is made to 10 consecutive workdays, the equivalent time period for Firefighters who work 2,496 hours per year is 14 calendar days.

Questions about leave without pay, other types of leave, and termination of employment should be directed to the Office of Human Resources, Labor/Employee Relations Team, at 240-777-5114.

Questions about PAF processing and health insurance while on LWOP should be directed to the Office of Human Resources, Benefits and Records Management Team, at 240-777-5112.

General Information

Leave without pay (LWOP) is an approved absence during which you are in non-pay status. Your benefits during LWOP may vary, depending on the **reason for your LWOP** and the length of time you're on LWOP. Read carefully for the information that applies to your particular LWOP situation.

Note: Most of the information provided here applies to LWOP in excess of 10 consecutive workdays.

Q. How do I request LWOP?

A. You must request LWOP in writing. Your request should be submitted to your immediate supervisor as far in advance as possible, and must state your reason for requesting the leave.

If the LWOP request is approved, and if the LWOP will be for more than 10 consecutive workdays, your department will send a Personnel Action Form (PAF) to the Office of Human Resources (OHR). The PAF will indicate your change from active status to LWOP.

If you request LWOP for 10 consecutive workdays or less, your department won't need to complete a PAF, but your supervisor's approval is still required. The decision to approve a LWOP request rests with the department director or a designee.

In emergency situations, leave without pay may be granted by the Chief Administrative Officer or other designated official without prior application.

If you request LWOP for more than 90 days, your department may require that you waive reinstatement rights to your position, unless your LWOP is for active duty military service or for a reason covered by the federal Family and Medical Leave Act (FMLA). The waiver of reinstatement rights will be noted on your PAF, which you should be asked to sign.

Q. For how long can LWOP be granted?

A. LWOP may be granted for up to one year.

Q. May an employee be placed on LWOP involuntarily?

A. Yes. An employee on approved sick or annual leave who has exhausted that leave and any compensatory time balance and doesn't return to work will be placed on LWOP.

An employee may also be placed in LWOP status involuntarily as a result of a disciplinary suspension.

Q. Why is LWOP typically requested?

A. In most cases, an employee who requests LWOP has exhausted sick or annual leave and compensatory time, although LWOP may be granted even if you have leave balances.

The most common reasons for requesting LWOP are:

- professional improvement
- employee illness or injury (up to 12 weeks may qualify under the federal Family and Medical Leave Act - FMLA)
- parental leave (up to 12 weeks may qualify as FMLA leave)
- other reasons that qualify under FMLA (See note below.)
- active duty military service
- personal reasons.

NOTE: Generally, the federal Family and Medical Leave Act (FMLA) provides for up to 12 weeks of paid or unpaid leave during a leave year to eligible employees to be used for the following reasons: the employee's serious health condition; the serious health condition of an employee's minor child, adult child incapable of self-care, spouse, or parent; or for reasons related to prenatal care, the birth of a child, or the care and placement of an

adopted or foster child. FMLA leave to care for a newborn, newly adopted, or newly placed foster child must be taken within one year of the birth, adoption, or foster placement. See the booklet on FMLA Leave or your supervisor for more information.

Parental leave is up to 720 hours (864 hours for Firefighters who work 2,496 hours per year) of any combination of sick or annual leave, compensatory time, or LWOP during any 24-month period to care for an employee's newborn or newly adopted child.

Compensation

Q. When I return to work, will I receive any general salary adjustment or negotiated salary adjustment if one was effective while I was on LWOP?

A. Yes. When you return to pay status from LWOP, your salary will be adjusted by any applicable general or negotiated salary adjustment that affects your position.

Q. When I return to work, will I still be eligible for service increments on my increment date?

A. Not necessarily. If your LWOP is 10 consecutive workdays or longer

(28 calendar days for Firefighters who work 2,496 hours per year), your increment date will be reset to a new date determined by the duration of your LWOP. Your increment date will not be reset if your LWOP was for parental leave, active duty military service or professional improvement. If your increment date is reset, the new date will become your future increment date.

Q. If a holiday occurs during my LWOP, am I eligible for holiday pay?

A. It depends. To be eligible for holiday pay, you must be in pay status either the last scheduled workday before the holiday or the first regularly scheduled workday after the holiday.

Q. If I was employed prior to implementation of the new payroll system (November 1985), and received a 40-hour pay advance (pro-rated for part-time employees) as part of the system implementation, what's the impact of my LWOP on the pay advance?

A. Your pay advance from 1985 will be deducted from the last paycheck before your LWOP, or from your first paycheck when you return to work, or from any check you receive for sick leave donations made by other employees on your behalf. (The deduction will be at your 1985 pay rate.) If you resign at the end of your LWOP, then the 40-hour pay advance, if

not already taken, will be deducted from any annual or compensatory leave payout.

Leave

Q. Will I continue to earn annual or sick leave while I'm on LWOP?

A. No. There is no accrual of leave while you're in LWOP status.

Q. Do I have to exhaust my annual leave and compensatory time balances before requesting LWOP?

A. No. You may request LWOP even if you have leave balances.

Q. When I return to work, will my leave accrual date be the same?

A. Not necessarily. Full-time employees earn annual leave depending on years of County service:

Years of Service	Full-time County Employees earn:	Firefighters who work 2496 hours per year earn:
Less than 3	120 hours/year	144 hours/year
3 or more but less than 15	160 hours/year	192 hours/year
15 or more	208 hours/year	249 hours/year

Your leave accrual **rate** is the rate you're earning leave, depending on your years of service. Your leave accrual **date** is the date your leave accrual rate will increase based on your years of service. If your LWOP exceeds four weeks, your leave accrual date will be reset to a later date determined by the length of time you were on LWOP.

Q. What happens to any annual, sick, or compensatory leave balances I may have had before going on LWOP?

A. Leave balances will be available upon your return to pay status after LWOP, subject to any mandatory rollover or payoff of compensatory time.

Length of Service/ Seniority

Q. Will LWOP affect my seniority?

A. It may. The impact of LWOP varies by collective bargaining unit and departmental policies. For example, seniority for reduction-in-force (RIF) is affected by LWOP unless the LWOP is taken for active duty military service.

In some instances, where eligibility for promotion or transfer depends on seniority, seniority credit will generally not include periods of LWOP.

Before going on LWOP, you should check with your department to find out whether LWOP will affect your seniority. Bargaining unit employees should consult their labor agreement for the specific definition of seniority.

Reinstatement Rights to a Position

Q. Do I automatically get my job back when I return from LWOP?

A. For approved LWOP exceeding 90 days, the Chief Administrative Officer or designee may require you to waive reinstatement rights to your position unless the leave is for active duty military service or qualifies as FMLA leave. The waiver of

reinstatement rights will be noted on the LWOP PAF at the time your request for LWOP is approved. If you aren't required to waive your rights to your former position, then at the conclusion of the LWOP you'll automatically return to that position.

If LWOP was taken for FMLA purposes, you'll return to your former position or one that is comparable. If LWOP was taken for active duty military service, you must apply for reinstatement to your position (or a comparable position, depending on the length of your LWOP), promptly upon your separation from military service, but in no case more than 90 days after your separation.

If your LWOP exceeds 90 days and you've waived reinstatement rights to your former position, you may be considered for available vacancies for which you qualify and which are at or below the grade of the position you held prior to your LWOP. However, you have no entitlement to those vacancies. If a suitable vacancy doesn't exist or you haven't been selected to fill a vacancy, your employment will be terminated at the conclusion of the 12-month limitation on LWOP.

Insurance

Q. What happens to my health insurance if I'm on LWOP?

A. Continuation of your health insurance coverage depends, in part, on the length of your LWOP and the reason for the LWOP. In addition, up to 12 weeks of LWOP taken for parental leave or for certain other reasons will be covered under provisions and protections of the federal Family and Medical Leave Act (FMLA).

Generally:

If you're on LWOP for 10 consecutive workdays or less, your insurance coverage will continue, and your share of the premium for the time you were on LWOP will be deducted from your next paycheck when you return to work.

If your LWOP is more than 10 consecutive workdays, the cost to continue coverage and your ability to request reinstatement of coverage if your coverage was canceled or dropped will vary, as described below and summarized on the attached chart.

- **LWOP taken for personal reasons or professional improvement**

First 60 days - The County continues to pay the County's portion of the total premium during this first 60-day period. After OHR receives the LWOP PAF from your department, you'll be sent a billing notice indicating the

amount of your portion of the insurance premium and the due dates for payment.

Failure to pay your portion of the health insurance premium by the date due will result in cancellation of your coverage. In general, if coverage is canceled or dropped, you'll need to re-apply for insurance to OHR's Benefits Team *within 60 days of your return to work*.

After 60 days - After 60 days, if you continued your insurance for the first 60 days of LWOP, you'll be eligible to continue your insurance for an additional period as provided by the federal Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA).

You'll be notified by the County's COBRA administrator of your eligibility to elect COBRA coverage for yourself and your currently covered dependents for a limited period. To continue your health insurance coverage under COBRA, you'll have to pay 102% of the total premium. If you choose health coverage under COBRA, you'll be billed monthly.

- **LWOP taken because of employee illness or injury**

Up to one year - The County continues to pay the County's portion of the total premium. After OHR receives the LWOP PAF from your department, you'll be sent a billing notice indicating the amount of your portion of the

insurance premium and the due dates for payment.

FMLA

If the illness or injury is covered by FMLA, unless you notify OHR that you wish to cancel your insurance, you will be expected to pay your share of the premium monthly.

If you fail to pay your share of the premium, the County will pay the entire premium for the period of FMLA coverage and recover the money owed from your paycheck when you return to work. Reinstatement of coverage is automatic upon return to pay status from FMLA leave. Documentation of illness or injury may be required.

Non-FMLA

If the illness or injury is not covered by the FMLA or exceeds the period of FMLA coverage, failure to pay your portion of the health insurance premium by the date due will result in cancellation of your coverage. In general, if coverage is canceled or dropped, you'll need to re-apply for insurance coverage to OHR's Benefits Team *within 60 days of your return to work*.

- **LWOP taken for other FMLA purpose**

Up to 12 weeks in a leave year - The County continues to pay the County's portion of the total premium. When OHR receives the LWOP PAF from your department, you'll be sent a billing notice indicating the amount of your

portion of the insurance premium and the due dates for payment.

For the period of FMLA coverage, unless you notify OHR that you wish to cancel your insurance, you will be expected to pay your share of the premium monthly.

If you fail to pay your share of the premium, the County will pay the entire premium and recover the money owed from your paycheck when you return to work. Reinstatement of insurance coverage is automatic upon return to pay status from FMLA leave.

However, if your LWOP exceeds the period of FMLA coverage, at the expiration of the FMLA coverage, failure to pay your portion of the health insurance premium by the date due will result in cancellation of your coverage.

In general, if coverage is canceled or dropped, you'll need to re-apply for insurance coverage to OHR's Benefits Team *within 60 days of your return to work.*

- **LWOP taken for parental leave**

Up to 720 hours (864 hours for Firefighters who work 2,496 hours per year) per 24-month period - The County continues to pay the County's portion of the total premium. When OHR receives the LWOP PAF from your department, you'll be sent a billing notice indicating the amount of your portion of the insurance premium and the due dates for payment, and you'll

be expected to pay your share of the premium.

If you fail to pay your share, the County will pay the entire premium and recover the money owed from your paycheck when you return to work. Reinstatement of coverage is automatic upon return to pay status.

Note: A maximum of 12 weeks per leave year of parental leave may be covered by FMLA.

- **LWOP taken for active duty military service**

An employee who enters active duty military service receives health care from the military and may choose to let County health insurance lapse. Health care for dependents is also available from the military, although this may not always be convenient. Should you wish to continue your health insurance coverage with the County, the following applies:

If your active duty military service is involuntary, you may elect to:

- Cancel your insurance with the County; or
- Continue your health insurance for the duration of your military service. The County continues to pay the County's portion.

When OHR receives the LWOP PAF from your department, you'll be sent a billing notice indicating the amount of your portion of the insurance premium

and the due dates for payment. Unless you notify OHR that you wish to cancel your insurance, you will be expected to pay your share of the premium monthly.

If you fail to pay your share, the County will pay the entire premium and recover the money owed from your paycheck when you return to work. Reinstatement of coverage is automatic upon return to pay status.

If your active duty military service is voluntary, the following applies:

First 60 days - The County continues to pay the County's portion of the total premium during this period. When OHR receives the LWOP PAF from your department, you'll be sent a billing notice indicating the amount of your portion of the insurance premium and the due dates for payment. If you do not pay your share, your insurance will be canceled.

More than 60 days - After 60 days, if you continued your insurance for the first 60 days of LWOP, you'll be eligible to continue your insurance for an additional period as provided by the federal Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA).

You'll be notified by the County's COBRA administrator of your eligibility to elect COBRA coverage for yourself and your currently covered dependents for a limited period. To continue your health insurance coverage under COBRA, you'll have to

pay 102% of the total premium. If you choose health coverage under COBRA, you'll be billed monthly.

Q. How do I request reinstatement of health insurance if coverage has been dropped or canceled?

A. If your health insurance has been dropped or canceled and you want to request reinstatement, you must contact OHR's Benefits Team to re-enroll *within 60 days of your return to work*.

If you miss the 60-day period for re-enrollment, you'll have to wait until the next Transfer Season, in which case the enrollment would be effective January 1 of the calendar year following Transfer Season.

Retirement Credits/Contributions

Q. If I'm a member of the Employees' Retirement System (ERS), will I continue to accrue credited service towards retirement while I'm on LWOP?

A. There is no accrual of credited service towards retirement while you're on LWOP unless your LWOP was taken for active duty military service.

Note: If you're a member of the ERS, and on authorized LWOP because of your own serious health condition, you have the opportunity to receive credited service for up to one year of such an absence. In order to receive the credited service, you must pay both your contributions and the County's contributions to the ERS during the period of time that you are on LWOP for your serious health condition. It is therefore important that you contact a Specialist on the Benefits Team as soon as you are put on LWOP, in order to take advantage of this opportunity.

If you're a member of the ERS, and on LWOP for active duty military service, you'll be given credit for your military service upon your reinstatement. Talk to a Specialist on the Benefits Team for more information.

Q. Does LWOP affect vesting in either the ERS or the Retirement Savings Plan (RSP)?

A. Yes. Unless you're on LWOP for active duty military service, your LWOP will not count towards vesting in either the ERS or the RSP.

Special Accounts

Q. What happens to my deferred compensation while I'm on LWOP?

A. No contributions can be made to your deferred compensation account until you return to pay status. Your contributions will resume at that time.

Q. What happens to my savings bond deduction, health care spending account, and/or dependent care assistance account while I'm on LWOP?

A. Savings Bonds

The payroll deduction for your savings bonds will stop when your paychecks are discontinued, but will automatically resume when you return to pay status.

Health Care Flexible Spending Account/Dependent Care Spending Account

Deductions to these accounts will stop when your paychecks are discontinued. Your accounts go into a holding status, but you may still submit valid claims against both the health care and dependent care spending accounts if there are balances in these accounts.

If you want to keep your health care flexible spending account open, you must notify the Office of Human Resources, in

writing, of your request within two weeks of beginning your LWOP. If you choose to keep the account open, you may continue to request reimbursement for expenses incurred while you were contributing.

If you remain on LWOP status for two consecutive paydays, your participation in the dependent care spending account is automatically canceled. Consult a member of the Benefits Team at 240-777-5000 about IRS rules on future participation in this FSA.

Return to Work

Q. What happens when I return from approved LWOP?

A. If your LWOP was for more than ten consecutive workdays, your department will need to prepare a PAF indicating your return from LWOP and send it to the Office of Human Resources. The PAF will return you to pay status. Check with your department to make sure the PAF has been sent to OHR since you can't receive a paycheck unless the PAF that returns you to active status has been processed.

If your LWOP was for 10 consecutive workdays or less, your department won't need to submit a PAF.

Q. What happens if I don't return to work after the maximum one year of approved LWOP?

A. Normally, if you don't return to work after one year of LWOP, your department must initiate action to terminate your employment with the County.

Procedural Information for Managers and Supervisors

- An employee must submit a written request for LWOP, unless LWOP is requested for an unforeseeable emergency. The LWOP request is subject to approval by the department director or designee.
- The department determines whether to require the employee to waive reinstatement rights if LWOP will be in excess of 90 days, **unless the LWOP is FMLA leave or military leave**, in which case the waiver of reinstatement rights cannot be required.
- The department must submit a PAF for all LWOP in excess of 10 consecutive workdays to the Office of Human Resources (OHR) indicating the change to LWOP status and the expected date of the employee's return. The waiver of reinstatement rights, if required, must appear on the LWOP PAF, as

well as the reason for the LWOP (e.g., FMLA, parental, personal reasons, voluntary or involuntary active duty military leave, etc.). The PAF should be signed by the employee if the employee has waived reinstatement rights.

Note: The department is responsible for tracking parental and FMLA leave to be sure that limits are not exceeded.

- The department monitors all LWOP end dates, following up with the employee prior to the end date to find out if the employee will return to work. A PAF extending the LWOP will be necessary if any extension is granted (up to the one year maximum), or the department may initiate action to terminate the employee (see below).

When the employee returns from LWOP in excess of 10 consecutive workdays, the department submits a PAF indicating the change to active status; or,

- **If an employee is approaching a year of being on LWOP, the manager or supervisor must investigate the situation and determine whether to initiate action to return the employee to pay status, terminate the employee, or justify another recommendation. Some action must be taken by the department at the conclusion of the one-year LWOP period, and OHR's Labor/Employee Relations Team must be notified.**
- To initiate termination of an employee, the department must provide written

notice to the employee of the intent to terminate. After a reasonable period for response (two weeks), a written notice of termination must be sent to the employee. (When processing a termination, copies of the notice of intent and the notice of termination must accompany the PAF.)

- In the case of suspension and regardless of the length of the suspension, the department must submit a PAF indicating the action and the start and end dates.

Note: This information can be made available in an alternate format, if necessary. Please contact the Labor/Employee Relations Team at 240-777-5114.

LWOP HEALTH INSURANCE COVERAGE CONTINUATION

REASON FOR LWOP	TOTAL LENGTH OF LEAVE	COST TO CONTINUE COVERAGE	PAYMENT	REINSTATEMENT OF COVERAGE IF CANCELED OR DROPPED
PERSONAL REASONS OR PROFESSIONAL IMPROVEMENT	Maximum: 1 year	<p>First 60 days: Employee continues to pay employee share of premium. County continues to pay County share.</p> <p>After first 60 days: Employee notified of coverage available under COBRA. Cost to employee is 102% of total premium.</p>	<p>Due as indicated on billing statement mailed to home. If not paid, coverage will be canceled.</p> <p>COBRA payment due monthly on receipt of bill.</p>	Requires application for coverage to Benefits Team within 60 days of return to work.
EMPLOYEE ILLNESS OR INJURY	Maximum: 1 year (Up to 12 weeks may be covered by FMLA)	Employee continues to pay employee share of premium. County continues to pay County share.	<p>Due as indicated on billing statement mailed to home.</p> <p>If illness or injury covered by FMLA, County will pay employee share for maximum 12-week FMLA period if employee fails to pay, and will recover employee's share from paycheck upon employee's return to work.</p> <p>If FMLA not applicable or FMLA period exceeded, coverage will be canceled if bill not paid.</p>	<p>If illness or injury covered by FMLA, reinstatement is automatic if return to pay status is within period covered by FMLA.</p> <p>If not covered by FMLA, or FMLA period exceeded, requires application for coverage within 60 days of return to work.</p>

REASON FOR LWOP	TOTAL LENGTH OF LEAVE	COST TO CONTINUE COVERAGE	PAYMENT	REINSTATEMENT OF COVERAGE IF CANCELED OR DROPPED
FMLA	Maximum: 12 weeks per leave year	Employee continues to pay employee share of premium. County continues to pay County share.	<p>Due as indicated on billing statement mailed to home.</p> <p>If employee fails to pay, County will pay entire premium and recover employee's share from paycheck upon employee's return to pay status.</p> <p>If FMLA period exceeded, coverage will be canceled if bill not paid.</p>	<p>Reinstatement of coverage is automatic if return to pay status is within period covered by FMLA.</p> <p>If FMLA period exceeded, application for coverage must be made within 60 days of return to work.</p>
PARENTAL	<p>Maximum: 720 hours per 24-month period (864 hours for operational Firefighters) taken within 12 months of birth or adoption.</p> <p>(Up to 12 weeks may be covered by FMLA. FMLA leave must be used within 1 year of birth, adoption, or placement of foster child.)</p>	Employee continues to pay employee share of premium. County continues to pay County share.	<p>Due as indicated on billing statement mailed to home.</p> <p>County will pay employee share if employee fails to pay and will recover employee's share from paycheck upon employee's return to pay status.</p>	Reinstatement of coverage is automatic upon return to pay status.

REASON FOR LWOP	TOTAL LENGTH OF LEAVE	COST TO CONTINUE COVERAGE	PAYMENT	REINSTATEMENT OF COVERAGE IF CANCELED OR DROPPED
ACTIVE DUTY MILITARY SERVICE	Maximum: 5 years	<p>If military service is involuntary, employee continues to pay employee share of premium. County continues to pay County share of premium.</p> <p>If military service is voluntary, for the first 60 days: Employee continues to pay employee share of premium. County continues to pay County share.</p> <p>If military service is voluntary, after 60 days: Employee notified of coverage available for limited period under COBRA. Cost to employee is 102% of total premium.</p>	<p>Due as indicated on billing statement mailed to home.</p> <p>For involuntary service, County will pay employee share if employee fails to pay and will recover employee's share from paycheck upon employee's return to pay status.</p> <p>For voluntary service, if not paid, coverage will be canceled.</p> <p>COBRA payment due monthly on receipt of bill.</p>	<p>For involuntary service, insurance is automatically reinstated upon return to pay status.</p> <p>If coverage was canceled, requires application for coverage within 60 days of return to work.</p>
SUSPENSION	60 days	<p>First 60 days: Employee continues to pay employee share of premium. County continues to pay County share.</p> <p>After 60 days: Employee notified of coverage available under COBRA. Cost to employee is 102% of total premium.</p>	<p>Due as indicated on billing statement mailed to home. If not paid, coverage will be canceled.</p> <p>COBRA payment due monthly on receipt of bill.</p>	Requires application for coverage within 60 days of return to work.